

MEETING SUMMARY NOTES

Legislation Work Group

December 3, 2002

1:30 p.m., Room 113 - CCB

MEMBERS: Present – Jan Gauger, Beatty Brasch, Bruce Bohrer, Bill Austin, Steve Larrick, Bruce Kevil, Ken Winston, Chris Beutler, Allan Abbott (non-voting).

Absent – Linda Crump, Darlene Starman, Bob Peterson, Brian Krannawitter, Alan Hersch

OTHERS: Kent Morgan, Margaret Blatchford, Corrie Kielty, Melissa Ramos.

AGENDA ITEMS DISCUSSION:

1. Welcome - Jan Gauger, Work Group Chair

2. Meeting Summary Notes - November 21, 2002

There were no corrections to the meeting summary notes.

3. Public Comment Period No. 1 (10 min. max.)

No one came forward to make any comments.

4. Where Do We Go From Here? - Status Report

Jan Gauger reviewed all of the possible legislation that the group has discussed.

State Legislation:

Raising the Gas Tax State Wide

Changing the Gas Tax Formula

Stormwater Utility Permissive Legislation

Changing the MERF Formula

Permissive Legislation Allowing Design Build Ability for the City of Lincoln

Reallocation of State Gas Tax

Local Level:

Raising the Wheel Tax

Passing an Ordinance to Establish a Local Stormwater Utility - If State Legislation Passes

Enacting an Occupation Tax on Gasoline - Requires Council Approval, but not State Approval
Charter Amendment to Allow Design Build - If State Legislation Passes
City Issued Permit Requiring the Reporting of Gasoline Sold
Raising Water and Sewer Rates

Federal:

Federal Re-Authorization Act - Lobby for Additional Money and Longer Time Period

This group is to have a written report to the full committee by December 19th. A final review of the report will be done by e-mail to get everyone's comments. Jan proposed that the options need to be prioritized in order to find those that are or are not feasible. Bohrer suggested that the options be prioritized, however all options should be listed in the report. He would prefer to present to the large group the options that were looked at and show the priority list and the reasons why it was listed as a priority. Jan stated that the next step will be to give the group's recommendation to the overall committee. That committee will take the recommendation to the Mayor. Beutler asked why Impact Fees were not listed as an option. Jan clarified that the charge from the Mayor was to accept Impact Fees as a base. Therefore, this group is looking at what money is needed in addition to Impact Fees as they were introduced.

Ken Winston asked for an overview of the occupation tax. Bill Austin stated that the City of Lincoln has two separate statutes that authorize it to levy occupation taxes. One is geared toward public service and the other is a general occupation tax. These allow the levying of an occupation tax on any business or occupation within the City of Lincoln. This group was considering the possible exercise of that authority by way of using an occupation tax on the business of the retail sale of gasoline within the City of Lincoln. This would affect 137 retailers within Lincoln that sell gasoline. This can be taxed based upon a percentage of gross revenue or a set amount per gallon sold. That money could then be allocated directly to the construction of arterial streets. It is constitutionally and statutorily authorized and would be placed in the hands of City Council to vote on such a tax. It places the burden on the user who is causing the need. Ken Winston asked if there are any limits on the kinds of occupations that can be taxed. Bill Austin stated that scientific or literary lectures and entertainment are exempt from such a taxation. Ken Winston suggested that if people who use the streets should be taxed, car dealers should be looked at. Allan stated that sales tax on automobiles go to the road fund and the City gets a portion of that. Bill Austin stated that the tax on car dealers could not be made as transparent as the tax on gasoline. Traditionally we have not raised the general sales tax on one particular item.

Jan stated that the group needed some idea of how much money is really needed. Allan Abbott stated that the unmet street needs will be at least 90 million dollars in the first six years, depending on what the Finance and Efficiency Committee come up with.. That is not counting the federal money that we will get for the beltways. That is based on a CIP that did not meet the needs of the Comprehensive Plan. Jan asked if we just looked at the City Limits right now, without the six year or the twelve year, what will we need for the unmet street needs presently with no expansion. Allan Abbott did not have that information. Bill Austin asked if the 90

million was after we spend all of the highway allocation and street construction funds. Allan Abbott stated that we have a 90 million dollar gap in revenue. We have spent everything that we've got. That includes the local match of the Antelope Valley and Beltway. The local portion needed for Antelope Valley will be 120 million dollars in order to get Phase I work done in a six year period. The Efficiency Committee will look at that and see if some of that can be moved to the second six years. That is why the numbers that Allan Abbott gave today will change.

Allan Abbott stated that we will not come up with cash to fund the short fall to fund streets over the next six to twelve years. Other options will need to be looked into. These may include bonding, phasing, or delaying projects. However, that really doesn't save money it just pushes the gap forward. If everything is successful in closing the gap the Finance committee needs to find out where to make up the rest. That is where the bonding comes in. Jan stated that the other work group will make recommendations to the IFS committee regarding these issues.

Steve Larrick asked if the 90 million gap assumes impact fees are coming in. Allan Abbott answered no, it assumes no new revenue because only a portion of Impact Fees will go to roads. Chris Beutler stated that if 90 million was the gap and we had to come up with cash, that will be 15 million per year. He asked how much Impact Fees will contribute to roads. Abbott answered that in year 4 or 5 Impact Fees will contribute 3.5 to 4 million dollars a year. There will be some growth in the wheel tax as the economy and the City grow. However, that growth was figured into the cash flow when the 90 million dollar gap was figured. The increased sales tax has not been included in the revenue projections because last year the increase was taken away. If that comes back in, it would be helpful, however, at this time nothing is coming in. The City of Lincoln lost \$500,000.00 to \$600,000.00 when it was diverted.

5. Fuel Tax Information Update and Options

At this time there is no additional information. Kent Morgan added that Kathy Campbell will be attending the next meeting to talk about the Governor's Transportation Task Force.

6. Stormwater Utility Legislation

Allan Abbott stated that the City is still proceeding with the Stormwater Utility Legislation. None of that money coming in will help the shortfall.

7. "Design-Build" Contracting Approach

Jan Gauger explained that Design Build is when a project is done from design to construction by one entity, rather than having staff do the design and then put the design out for bid. It saves time because you contract with one company from the beginning for a set amount of money. At this time it is not legal in Nebraska because you need a set of plans to have a contract, and by definition Design-Build is to hire someone to do the plans and build it. HDR has offered to come to the next group meeting to give more information on this option.

8. Other Business

Jan asked if the group would like to go through each option and prioritize them today or if they should be prioritized at the next meeting. Ken Winston stated that he felt the Stormwater Utility Fee needed to be given a high priority because there is existing legislation. If it is not funded in some way, we will be in violation with the NPDES. Bruce Kevil stated that the Phase II requirement that the City has received addresses issues relative to monitoring for illegal discharges, requires inventory of the stormwater system, and requires regulation of excavation of an acre or larger. These items are real and cost money, however, they are not Capital Improvement projects. Kevil suggested that we don't negate our responsibility to meet the Phase II requirements, however, we have an obligation to show that these kinds of legislation can be used not unlike a special assessment district that can be doing capital improvements. We need to show that it has the opportunity to do things relative to Capital Improvements. There is no illustration showing how the Stormwater Utility could be used for capital activities. Allan Abbott suggested that at the next meeting Nicole could come back to give information on the Beal Slough plan and give a quick presentation. Kevil supports that the Stormwater Utility be a priority but he does not believe that it has been established in a written or financial way that gives real life examples.

Bill Austin stated that he is not supportive of prioritizing the Stormwater Utility Fee. He does not feel that stormwater constitutes a utility, citizens can not turn off and on the need for drainage. The people of the City of Lincoln have always been more than generous in passing bond issues that are necessary for the stormwater system. We have never used our ability to create stormwater districts and assess them partly because we could never figure out how anyone has benefitted by stormwater improvements. This leads Austin to believe that this is a general improvement and this legislation boils down to being a tax. Steve Larrick did not agree that Salt Creek is not a part of the infrastructure for our community. Those neighborhoods who have gone from being outside the 100 year flood plain into the 40 year flood plain because of run off from different areas, feel it is a real utility to have some flood protection. They are having to pay hundreds of dollars in flood insurance. Jan added that philosophically people could be opposed to an entity administering something and not be opposed to solving the problem if there is another way to solve it. Ken Winston noted that there is a different way to solve the problem, everyone pays through their property taxes. Bill Austin clarified that he believes that if the City is going to tax someone they need to be honest about it. At some point things become a general benefit to the community. Ken Winston stated that it seems that we are moving in the direction of just levying on property. Jan Gauger explained that from what she understands of the legislation, how you handled your drainage would determine how much you were paying. If you were doing more to manage the drainage, you would pay less. This is an important issue that we need more information on. Allan Abbott will get some answers back to the group at the next meeting.

Chris Beutler asked how the stormwater gap compared to the road gap. Allan Abbott was unable to answer the question at this time. Beal Slough is going to cost more money because steps were not taken previously. Nicole Fleck-Tooze is putting together those numbers. The Stormwater

Utility is an option to bond issues. If both fail then we will not be able to do anything and then we are in trouble with our discharge permit. Jan suggested that this be revisited at the next meeting.

Jan introduced the option of raising the gas tax statewide. The pro for that is the significant amount of money the City would receive. The con is that there is little likelihood it would be passed in this legislative session.

The local gas tax would have a little more life to it than the statewide gas tax. Chris Beutler stated that it is very important to know where Omaha is in terms of helping us with this. If the two cities are solidly behind it, there is a fighting chance. Allan Abbott stated that Omaha is lukewarm on the local tax, however, they would support the state wide gas tax. The Omaha and Lincoln Council would not like this put in their laps. Raising the gas tax is something that there would be support for, maybe not enough to get through, however, it should be put on the list. Jan added that Kathy Campbell will be here next week to discuss the Governor's Task Force. They will probably be looking at this, so it may be better to wait and join them at a later point.

Ken Winston asked if the formula reallocation would help Omaha as well. Allan Abbott explained that it would help Omaha, but then it would be Omaha and Lincoln versus everyone else. Kevil added that in order to make that work, the tax would have to be increased in order to increase the amount of money. Otherwise, you are taking money from one town and giving it to another. Chris Beutler noted that unless something is done about the uneven distribution, it will just go on until the numbers change 10 to 20 years from now. Jan Gauger suggested that we see how much influence we can have on the Governor's Task Force.

Jan asked if there was any chance for a reallocation of the cigarette tax. Chris Beutler answered that with the difference in times, there is going to be legislation taking that money away from the City. He would be skeptical about trying to raise it.

Ken Winston asked about Nebraska having one of the highest gas tax in the nation. Allan Abbott stated that Nebraska is 9th in the nation at this time. Chris Beutler asked if other states had local option gas taxes. Allan Abbott answered that there are no notes stating which cities have the ability to add an occupational tax. He will find out the number of states that have the local option. Chris Beutler asked if other cities with the local option use their money to for a mass transit system. Abbott stated that some have taxing ability like in Omaha and others do not, like in Lincoln.

Jan discussed the Design Build option. Kent Morgan noted that it was brought up in the Finance Group, however, it was brought to this group because it deals with state legislation. Allan Abbott stated that he has not had much personal experience with the Design Build projects, however, it is time that is saved with this process.

9. Set Agenda Topics for Dec. 10th Meeting

HDR will give a presentation regarding Design Build. Kathy Campbell will attend in order to discuss the Governor's Transportation Task Force.

Kent will send out a list with the pros and cons for each option through e-mail. Group members need to be prepared to discuss at the next meeting.

10. Public Comment Period No. 2 (Time Permitting)

No one came forward to make any comments.

11. Adjournment

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